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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,979	10/01/2003	Charles Alan Ludwig	MS1-1708US	7717
22801	7590	11/12/2009		
LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER WENDMAGEGN, GIRMSEW	
			ART UNIT	PAPER NUMBER
			2621	
			NOTIFICATION DATE	DELIVERY MODE
			11/12/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/676,979

Applicant(s)

LUDWIG ET AL.

Examiner

GIRUMSEW WENDMAGEGN

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-30, 32-35, 38, 39, 43-45, 52 and 53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 23-30 and 32-35 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12-21, 38, 39, 43-45, 52 and 53 is/are rejected.
- 7) ☒ Claim(s) 11 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claim 1-4, 6-30, 32-35, 38-39, 43-45, 49, 52-53 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1-4, 6-10, 12-21, 38-39, 43-45, 49, 52-53 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a "processor readable medium", which by the specification is disclosed as to include non-statutory subject matter such as optical fiber, electrical connection, propagation medium (see page 21-22 of the specification). This is non-statutory subject matter since the signal is not being altered in any way. A claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim29 is rejected under 35 U.S.C. 102(b) as being anticipated by McGrath et al (Pub No US 2002/0122659).

Regarding claim29, McGrath anticipates a computer comprising a DV metadata extraction tool configured to extract metadata from a DV frame and enable access to the metadata (see paragraph 0036, extracting additional metadata frame-by-frame basis see also paragraph 0043, 0074) and a multimedia architecture that includes the DV metadata extraction tool (see figure4, 290 metadata extraction).

Claim 43 is rejected under 35 U.S.C. 102(b) as being anticipated by Oguro (Patent No US 6,344,939).

Regarding claim43, Oguro anticipates a processor-readable medium having stored thereon a data structure representing a 5-byte DV_ METADATA_ AAUX_ SOURCE pack, the data structure comprising: a LockedFlag field having data unpacked from a second byte of the pack (see figure32A, LF); an AudioFrameSize field

having data unpacked from the second byte of the pack (see figure32A, AF size); a StereoMode field having data unpacked from a third byte of the pack (see figure32A, Audio mode); a Channel field having data unpacked from the third byte of the pack (see figure32A, CH); a PairBit field having data unpacked from the third byte of the pack (see figure32A PA); an AudioMode field having data unpacked from the third byte of the pack (see figure32A, Audio mode); a MultiLanguage field having data unpacked from a fourth byte of the pack (see figure32A, ML); a FiftySixty field having data unpacked from the fourth byte of the pack (see figure32A, 50/60); a SystemType field having data unpacked from the fourth byte of the pack (see figure32A, STYPE); an Emphasis field having data unpacked from a fifth byte of the pack (see figure32A, EF); a TimeConstant field having data unpacked from the fifth byte of the pack (see figure32A, TC); a SamplingFrequency field having data unpacked from the fifth byte of the pack (see figure32A, SMP); and a Quantization field having data unpacked from the fifth byte of the pack (see figure32A, QU).

Claim 45 is rejected under 35 U.S.C. 102(b) as being anticipated by Oguro (Patent No US 6,026,212).

Regarding claim45, Oguro anticipates a processor-readable medium having stored thereon a data structure representing a 5-byte pack, the data structure comprising: a DaylightSavingsTime field having data unpacked from a second byte of the pack (see figure12 DS); a ThirtyMinutesFlag field having data unpacked from the

second byte of the pack (see figure12, TM); a Tens of Time Zone field having data unpacked from the second byte of the pack (see figure12 Tens of Time Zone); a Units of Time Zone field having data unpacked from the second byte of the pack (see figure12, units of time zone); a Tens of Day field having data unpacked from a third byte of the pack (see figure12, Tens of Day); a Units of Day field having data unpacked from the third byte of the pack (see figure12, units of day); a Week field having data unpacked from a fourth byte of the pack (see figure12, Week); a Tens of Month field having data unpacked from the fourth byte of the pack (see figure12, TNMN); a Units of Month field having data unpacked from the fourth byte of the pack (see figure12 Units of Month); a Tens of Year field having data unpacked from a fifth byte of the pack (see figure12 Tens of year); and a Units of Year field having data unpacked from the fifth byte of the pack (see figure12, Units of Year).

Claim 49 is rejected under 35 U.S.C. 102(b) as being anticipated by Oguro et al (Patent No US 5, 712,947).

Regarding claim49, Oguro anticipates processor-readable medium having stored thereon a data structure representing a 5-byte DV_METADATA_VAUX_SOURCE pack, the data structure comprising: a Tens of TV Channel field having data unpacked from a second byte of the pack (see figure28A, Tens of TV channel field); a Units of TV Channel field having data unpacked from the second byte of the pack (see figure28A, Unit of TV channel) ; a B/W field having data unpacked from a third byte of the pack

(see figure28A, B/W field); an Enable Color field having data unpacked from the third byte of the pack (see figure28A, EN); a Color Frames Identification field having data unpacked from the third byte of the pack (see figure28A, CLF); a Hundreds of TV Channel field having data unpacked from the third byte of the pack (see figure28A, Hundreds of TV channel); a Source Code field having data unpacked from a fourth byte of the pack (see figure28A, Source Code); a 50/60 field having data unpacked from the fourth byte of the pack (see figure28A, 50/60); a Signal Type field having data unpacked from the fourth byte of the pack (see figure38A, SType) ; and a Tuner Category field having data unpacked from a fifth byte of the pack (see figure28A, Tuner Category).

Claim 52 is rejected under 35 U.S.C. 102(b) as being anticipated by Tsujimura et al (Patent No US 6,009,233).

Regarding claim52, Tsujimura et al anticipates a processor-readable medium having stored thereon a data structure representing a 5-byte DV_METADATA _CAMERA_CONSUMER_CAMERA_I pack, the data structure comprising: an Iris field having data unpacked from a second byte of the pack (see figure23 Iris); an AEMode field having data unpacked from a third byte of the pack (see figure23 AE Mode); an AGC field having data unpacked from the third byte of the pack (see figure23 AGC); a WBMode field having data unpacked from a fourth byte of the pack (see figure23 WB mode); a WhiteBalance field having data unpacked from the fourth byte of the pack (see figure23 White Balance); a FocusMode field having data unpacked from a fifth byte of

the pack (see figure23 FCM); and a FocusPosition field having data unpacked from the fifth byte of the pack (see figure23 Focus).

Regarding claim53, Tsujimura anticipates a processor-readable medium having stored thereon a data structure representing a 5-byte DV_METADATA_ CAMERA_ CONSUMER_CAMERA_2 pack, the data structure comprising: a Vertical Panning Direction field having data unpacked from a second byte of the pack (see figure24, VPD); a VerticalPanningSpeed field having data unpacked from the second byte of the pack (see figure24, V Panning speed); an ImageStabilizer field having data unpacked from a third byte of the pack (see figure24, IS); a HorizontalPanningDirection field having data unpacked from the third byte of the pack (see figure24, HPD); a HorizontalPanningSpeed field having data unpacked from the third byte of the pack (see figure24 H Panning speed); a FocalLength field having data unpacked from a fourth byte of the pack (see figure24 Focal Length); a ZoomEnable field having data unpacked from a fifth byte of the pack (see figure24, ZEN); and an ElectricZoom field having data unpacked from the fifth byte of the pack (see figure24 E-Zoom).

Claim Rejections - 35 USC § 103

Claim38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura et al (Patent No US 5, 646,796), and further in view of Kimura et al (patent No US 5,905,844).

Regarding claim38, Kimura et al (hereinafter 796) teaches a processor-readable medium having stored thereon a data structure representing a 5-byte DV_METADATA _TEXT _HEADER pack, the data structure comprising: a TotalTextData field having data unpacked from a second and third byte of the pack (see figure14B) ; a TextType field having data unpacked from the third byte of the pack (see figure14B, Text Type); a TextCode field having data unpacked from a fourth byte of the pack (see figure14B, Text Code); an AreaNumber field having data unpacked from a fifth byte of the pack (see figure14B area No.); and a TopicTag field having data unpacked from the fifth byte of the pack (see figure14B, Topic Tag) but does not teach an OptionNumber field having data unpacked from the third byte of the pack. However Kimura et al (hereinafter 844) teaches an OptionNumber field having data unpacked from the third byte of the pack (see figure34 and 36, option).

Claim44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsujimura et al (Patent No US 6,009,233) and further in view of Oguro et al (patent No US 5,724,474).

Regarding claim44, Tsujimura teaches a processor-readable medium having stored thereon a data structure representing a 5-byteDV_METADATA_AAUX_SOURCE_CONTROL pack, the data structure comprising: a Copy Generation ManagementSystem field having data unpacked from a second byte of the pack (see figure15B, copy Gene.); an InputSource field having data unpacked from the second

byte of the pack (see figure15B, Copy Source) ; a Compression field having data unpacked from the second byte of the pack (see figure15B, CP); a SourceSituation field having data unpacked from the second byte of the pack (see figure15B,SCMS); a RecordingStart field having data unpacked from a third byte of the pack (see figure15B, Rec ST.); a RecordingEnd field having data unpacked from the third byte of the pack (see figure15B, Rec E.); a RecordMode field having data unpacked from the third byte of the pack (see figure15B, Rec Mode); a DirectionFlag field having data unpacked from a fourth byte of the pack (see figure15B, DRF); a PlaybackSpeed field having data unpacked from the fourth byte of the pack (see figure15B, Speed); and a GenreCategory field having data unpacked from a fifth byte of the pack (see figure15B Genre Category) but does not teach an InsertChannel field having data unpacked from the third byte of the pack . However, Oguro teaches an InsertChannel field having data unpacked from the third byte of the pack (figure22, insert CH).

Allowable Subject Matter

Claim23-30, 32-35 allowed.

Claim11, 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIRUMSEW WENDMAGEGN whose telephone number

is (571)270-1118. The examiner can normally be reached on 7:30-5:00, M-F, all Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Girumsew Wendmagegn/
Examiner, Art Unit 2621

/JAMIE JO ATALA/

Examiner, Art Unit 2621